

REMARKS

Claims 1-8 and 10-34 are pending in this application. By this Amendment, claims 1, 13, 14 and 34 are amended and claim 9 is canceled. In particular, the features of claim 9 have been incorporated into claim 1. Support, for the amendments to claims 13 and 14 can be found in Applicants' specification on page 30, lines 2-4 and lines 10-14, for example. No new matter is added by these amendments. Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested.

I. Election of Species

Applicants confirm that claims 1-6, 8, 11-18, 21-23, 25, 31 and 34 continue to read on elected Figs. 6B, 11F, 13C, 14B, 15B, 16B and 19C. Applicants respectfully request rejoinder of non-elected claims 7, 10, 19, 20, 24, 26-30 and 32-33 when independent claim 1 is found to be allowed. Rejoinder is proper because claim 1 is generic to claims 7, 10, 19, 20, 24, 26-30 and 32-33, and thus claims 7, 10, 19, 20, 24, 26-30 and 32-33 would be allowable for the same reasons that claim 1 is allowable.

II. 35 U.S.C. §103(a)

The Office Action rejects claims 1-6, 11-14 and 18 under 35 U.S.C. §103(a) over U.S. Patent No. 4,364,992 to Ito et al. (hereinafter "Ito") in view of U.S. Patent No. 5,830,202 to Bogdanski et al. (hereinafter "Bogdanski"); and claims 9 and 34 under 35 U.S.C. §103(a) over Ito in view of Bogdanski and U.S. Patent No. 5,895,381 to Osborn III (hereinafter "Osborn"). The rejections are respectfully traversed.

A. Independent Claim 1

Independent claim 1 recites a leak preventer in which a ratio of an average left-to-right length W to an average front-to-rear length L is 1.0 or more.

The Office Action on page 7 admits that Ito and Bogdanski fail to disclose the above-mentioned features of claim 1. Instead the Office Action asserts that Osborn discloses a ratio

of width/length of 2.04 - 4.69, which allegedly overlaps the claimed range of more than 1.0. However, Applicants respectfully disagree that it would have been rational for one of ordinary skill in the art to modify Ito and Bogdanski's sanitary napkin with the dimensions of Osborn's interlabial device to achieve the claimed features.

With respect to feminine protection devices, the art generally offers three basic types: (1) sanitary napkins (i.e., Ito and Bogdanski) developed for external wear about the pudendal region; (2) tampons developed for internal wear within the vaginal cavity; and (3) interlabial devices (i.e., Osborn), which are basically a hybrid device that attempts to combine the structural features of a sanitary napkin and a tampon into a single device.

Osborn discloses an interlabial device 20 that is capable of being inserted into the interlabial space (i.e., space in the pudendal region of the female anatomy that is located between the inside surfaces of the labia majora extending into the vestibule) of a female wearer. (See Osborn's col. 2, lines 39-42 and col. 4, lines 26-29). Osborn states that the interlabial device has a size to fit comfortably within the wearer's interlabial space as apparent from the description "The interlabial device 20 should be of a suitable size and shape that allows at least a portion thereof to fit comfortably within the wearer's interlabial space and to cover the wearer's vaginal orifice, and preferably the wearer's urethra... The size of the interlabial device 20 is also important to the comfort associate with wearing the device." (See Osborn's col. 5, lines 23-32).

Osborn states that the length of the interlabial device 20 is preferably 49mm to achieve this "comfort." Osborn does not explicitly state a preferable length of the flexible extensions 24 in relation to "comfort." If there were explicit disclosure of the preferable length of the flexible extensions 24 it would most likely be to achieve the objective of a comfortable fit within the wearer's interlabial space. Whereas, the objective in the length of a sanitary napkin is to provide a comfortable fit in the external groin area while at the same

time sufficiently covering the pudendal region. These two objectives are significantly different and the lengths of the devices used to achieve the different objectives are not applicable between each device, because a sanitary napkin is not being inserted into an interlabial space.

The Office Action does not provide a sufficient rationale as to why one of ordinary skill in the art at the time of the invention would have modified Ito and Bogdanski with Osborn's length and width of interlabial device 20. The Office Action's currently articulated rationale for the modification (in order to fit an interlabial device effectively) is inapposite because Ito and Bogdanski are not interlabial devices.

Therefore, because rejections based on obviousness cannot be sustained by mere conclusory statements and there is no sufficient rationale to support the conclusion of obviousness as to why one of ordinary skill in the art at the time of the invention would have modified Ito and Bogdanski with Osborn's length and width of interlabial device 20, Ito, Bogdanski and Osborn, and any combination thereof, fail to disclose or suggest the above-mentioned features of claim 1.

Accordingly, Applicants respectfully request that the rejection be withdrawn.

B. Dependent claims 13 and 14

Dependent claim 13 recites the guide sheet extends to partially or entirely cover a lower surface of each of the absorbers.

Dependent claim 14 recites the guide sheet extends to further partially or entirely cover a side surface of each of the absorbers.

The Office Action, on page 6, equates Ito's rayon staple layer 11 to the claimed guide sheet. However, Ito fails to disclose or suggest that the rayon staple layer 11 extends to partially or entirely cover a lower surface of each of the absorbers; and extends to further

partially or entirely cover a side surface of each of the absorbers, because the rayon staple layer 11 is only disclosed as being disposed above absorbing layer 6. Bogdanski fails to overcome these deficiencies of Ito.

Accordingly, Applicants respectfully request that the rejection be withdrawn.

III. 35 U.S.C. §103(a)

The Office Action rejects claim 8 under 35 U.S.C. §103(a) over Ito in view of Bogdanski and U.S. Patent Application Publication No. 2003/0089633 to Sorebo et al. (hereinafter "Sorebo"); claims 15-17 under 35 U.S.C. §103(a) over Ito in view of Bogdanski and U.S. Patent No. 4,846,813 to Raley; claims 21, 23, 25 and 31 under 35 U.S.C. §103(a) over Ito in view of Bogdanski and U.S. Patent No. 5,954,201 to Finch et al. (hereinafter "Finch"); and claim 22 under 35 U.S.C. §103(a) over Ito in view of Bogdanski, Finch and U.S. Patent No. 5,674,214 to Visscher et al. (hereinafter "Visscher"). The rejections are respectfully traversed.

Sorebo, Raley, Finch and Visscher fail to overcome the deficiencies of Ito and Bogdanski as mentioned above, with respect to independent claim 1 and dependent claims 13 and 14. Thus, at least in view of the patentably distinct features of independent claim 1, as well as for the individual features recited in claims 8, 15-17, 21- 23, 25 and 31, the rejections of claims 8, 15-17, 21-23, 25 and 31 should be withdrawn.

A. Dependent claim 8

Claim 8 recites that an area of the sheet where the two bags are not provided occupies 50% or less of an area of the entirety of the sheet in the leak preventer.

The Office Action on page 6 admits that Ito and Bogdanski fail to disclose the above-mentioned features of claim 8. Instead the Office Action asserts that Sorebo discloses interlabial pad 1 comprising an area of a package where the two bags are not provided

occupying 50% or less of an entirety of the package in the leak preventer (allegedly Fig. 15 illustrates an area not covered by pockets 83, 85 substantially less than 50% of area covered by pockets). Applicants respectfully disagree: (1) with the Examiner's interpretation of Sorebo; and (2) that it would have been rational for one of ordinary skill in the art to modify Ito and Bogdanski's sanitary napkin with the dimensions of Sorebo's package 81 to achieve the claimed features.

Independent claim 1 recites an absorbent article comprising a leak preventer having a sheet and two bags, and dependent claim 8 further defines the dimensions/parameters of the leak preventer of the absorbent article. Whereas, Sorebo discloses in Figs. 1-5 an absorbent pad 1 capable of being packaged in individual packages 11 (see Sorebo's paragraph [0026]). Thereafter, the pads 1 individually wrapped in their packages 11 are placed into a package 17 designed to carry a supply 19 of the wrapped packages 11 (see Sorebo's paragraph [0027] discussing the first embodiment of the Sorebo's invention regarding the "package").

Sorebo's Fig. 15 illustrates a fourth embodiment of the package 17(81) designed to hold the wrapped packages 11 in a wallet fashion. Thus, the pockets (bags) are not bags of a pad 1 (an absorbent article) but instead are pockets for holding a number of the pads 1 individually wrapped in their packages 11. Therefore, the package 81 and areas thereof are not of a sheet, two bags and a leak preventer, as defined in claims 1 and 8. Thus, Sorebo is not applicable to the claims as asserted in the Office Action because the dimensions/parameters of Sorebo's package 81 holding a number of pads 1 would not have been predictably used by one of ordinary skill in the art to modify the areas of Ito and Bogdanski's absorbent articles.

Therefore, because rejections based on obviousness cannot be sustained by mere conclusory statements and there is no sufficient rationale to support the conclusion of obviousness as to why one of ordinary skill in the art at the time of the invention would have

modified Ito and Bogdanski with the dimensions/parameters of Sorebo's package 81, Ito, Bogdanski and Sorebo, and any combination thereof, fail to disclose or suggest the above-mentioned features of claim 8.

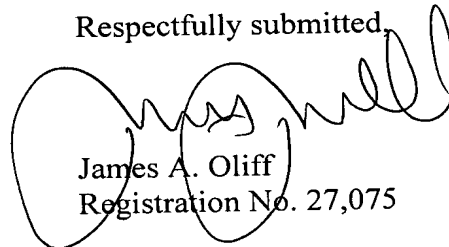
Accordingly, Applicants respectfully request that the rejections be withdrawn.

IV. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'James A. Oliff', is written over the printed name and registration number.

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